

House Concurrent Resolution No. 5019

By Committee on Federal and State Affairs

3-23

9 A PROPOSITION to amend the constitution of the state of Kansas by
10 adding a new article thereto, prescribing certain limits upon taxes,
11 revenues and expenditures by the state.
12

13 *Be it resolved by the Legislature of the State of Kansas, two-thirds of the*
14 *members elected (or appointed) and qualified to the House of Repre-*
15 *sentatives and two-thirds of the members elected (or appointed) and*
16 *qualified to the Senate concurring therein:*

17 Section 1. The following proposition to amend the constitution of the
18 state of Kansas shall be submitted to the qualified electors of the state
19 for their approval or rejection: The constitution of the state of Kansas is
20 amended by adding a new article thereto to read as follows:

21 **“Article 16. — REVENUE, ASSESSMENT AND EXPENDI-**
22 **TURE LIMITATIONS.**

23 “§ 1. *Definitions.* As used within this article:

24 (a) “State” means the state government including all branches,
25 state offices, authorities, agencies, boards, commissions, institu-
26 tions, instrumentalities and any division or unit of state government
27 which are directly supported with tax funds, except that “state” does
28 not include any enterprise;

29 (b) “local government” means any county, township, city, ed-
30 ucation district, other special district and any other taxing district
31 or political subdivision of Kansas which is directly supported by tax
32 funds, except that “local government” does not include any
33 enterprise;

34 (c) “enterprise” means a state-owned or local government-
35 owned business authorized to issue its own revenue bonds and re-
36 ceiving less than 10% of annual revenue in grants or other direct
37 cash benefit from the state and local governments combined;

38 (d) “bond” means any bond, note, debenture, interim certifi-
39 cate, grant and revenue anticipation note, lease-purchase agree-
40 ment, lease certificate of participation or other evidence of indebt-
41 edness which, in any such case, is entered into or establishes a debt
42 obligation for longer than one fiscal year, whether or not the interest
43 on which is subject to federal income taxation;

- 1 (e) “fiscal year” means the twelve-month fiscal period pre-
2 scribed by law for the state;
- 3 (f) “fiscal year spending” means all expenditures and reserve
4 increases except, as to both, (1) expenditures for refunds of any
5 kind, (2) expenditures of moneys received from the federal govern-
6 ment, moneys received as grants, gifts or donations which are to be
7 expended for purposes specified by the donor, moneys that are
8 collections for another government, moneys received for pension
9 contributions by employees and pension fund earnings, or (3)
10 budget stabilization reserve fund transfers, emergency reserve fund
11 transfers, or expenditures in accordance with this article;
- 12 (g) “base revenue year” means the fiscal year ending June 30,
13 2007, or the succeeding fiscal year having the greatest total state
14 revenue of any succeeding fiscal year that exceeds the total state
15 revenue for the fiscal year ending June 30, 2007, if any;
- 16 (h) “inflation” means the change expressed as a percentage in
17 the consumer price index for the Kansas City metropolitan area, all
18 goods, all urban consumers, as officially reported by the bureau of
19 labor statistics of the United States department of labor, or the
20 successor index to such consumer price index;
- 21 (i) “population” means the more recent of either the periodic
22 census conducted by the United States department of commerce
23 or its successor agency or the annual update of such census as pre-
24 scribed by the legislature by law, which shall be adjusted every
25 decade to match the federal decennial census;
- 26 (j) “education district” means each school district, vocational or
27 technical school, community college, technical college, municipal
28 university, and any other public educational entity established as
29 provided by law, except that “education district” does not include
30 any state educational institution under the control and supervision
31 of the state board of regents; and
- 32 (k) “total state revenue” means all moneys received by the state
33 from any source except any of the following:
- 34 (1) Moneys received as grants, gifts or donations which are to
35 be expended for purposes specified by the donor;
- 36 (2) moneys received from the federal government; and
- 37 (3) moneys which are income earned on moneys in permanent
38 endowment funds, trust funds, deferred compensation funds or
39 pension funds and which are credited to such funds.
- 40 § 2. *Supermajority for passage of certain bills for new or in-*
41 *creased taxes.* On and after July 1, 2011, a supermajority of two-
42 thirds ($\frac{2}{3}$) of the members then elected (or appointed) and qualified
43 of each house, voting in the affirmative, shall be necessary to pass

1 any bill enacting or amending any law creating any new state tax or
2 increasing the rate of any existing state income tax, sales tax, com-
3 pensating use tax or other excise tax or a tax in the nature of an
4 excise tax, property tax, or tax in the nature of a property tax, or
5 estate or inheritance tax, or a tax in the nature of an estate or in-
6 heritance tax, or any combination thereof.

7 § 3. *Spending and Revenue Limits.* (a) Except as provided by
8 this section, for any fiscal year that commences on or after July 1,
9 2011, fiscal year spending by the state shall not increase above the
10 fiscal year spending for the preceding fiscal year by more than the
11 maximum percentage increase determined pursuant to this section.
12 The maximum percentage increase in fiscal year spending for a
13 fiscal year shall be equal to the result obtained by adding the rate
14 of inflation for the calendar year ending during the preceding fiscal
15 year, plus the percentage change in state population during the
16 calendar year ending during the preceding fiscal year if a positive
17 number, adjusted for revenue changes resulting from acts enacted
18 in accordance with section 2 of this article. The limitation imposed
19 on fiscal year spending shall not apply to expenditures of moneys
20 transferred to the state general fund from the state budget stabili-
21 zation reserve fund pursuant to section 6 of this article. The limi-
22 tation imposed on fiscal year spending for a fiscal year may be au-
23 thorized to be exceeded by act of the legislature that is passed by a
24 supermajority of two-thirds ($\frac{2}{3}$) of the members then elected (or
25 appointed) and qualified of each house, voting in the affirmative,
26 and that authorizes fiscal year spending for such fiscal year in excess
27 of such limitation.

28 (b) For any fiscal year commencing on or after July 1, 2011, the
29 total state revenue limitation shall be determined in accordance
30 with this section. If the amount of the total state revenue for the
31 preceding fiscal year exceeds the amount of total state revenue for
32 the second preceding fiscal year, the total state revenue limitation
33 for a fiscal year shall be the result obtained by adding (1) the lesser
34 of (A) the amount of total state revenue for the preceding fiscal year
35 or (B) the amount of the total state revenue limitation for the pre-
36 ceeding fiscal year, and (2) the product of (A) the amount determined
37 under clause (1) of this subsection, and (B) the sum of (i) the rate
38 of inflation for the calendar year ending during the preceding fiscal
39 year, plus (ii) the percentage change in state population during the
40 calendar year ending during the preceding fiscal year if a positive
41 number.

42 (c) If the amount of the total state revenue for the preceding
43 fiscal year is less than the amount of total state revenue for the

1 second preceding fiscal year, the amount of the total state revenue
2 limitation for a fiscal year shall be the lesser of (1) the amount of
3 total state revenue for the second preceding fiscal year, or (2) the
4 amount of the total state revenue limitation for the base revenue
5 year.

6 (d) The legislature, by law, shall provide a mechanism to adjust
7 the amount of a limitation under this section to reflect any subse-
8 quent transfer of all or any part of the cost of providing a govern-
9 mental function. The mechanism shall adjust the amount of a limi-
10 tation so that total costs are not increased as a result of the transfer.
11 The adjustment mechanism provided for in this subsection shall be
12 used in determining a limitation under this section beginning with
13 the fiscal year immediately following the transfer.

14 (e) For the purposes of determining total revenue limitations
15 under this section for the state, the total authorized fiscal year ex-
16 penditures for the fiscal year ending on June 30, 2010, shall be
17 construed to be the total state revenue and the total revenue limi-
18 tation for that preceding fiscal year and the total authorized fiscal
19 year expenditures for the fiscal year ending on June 30, 2011, shall
20 be construed to be the total state revenue and the total revenue
21 limitation for that preceding fiscal year.

22 § 4. *Budget Stabilization Reserve Fund.* (a) For any fiscal year
23 that commences on or after July 1, 2011, if total state revenue ex-
24 ceeds the total state revenue limitation for that fiscal year, as de-
25 termined in accordance with section 3 of this article, then a portion
26 of the excess amount of state revenue shall be reserved as pre-
27 scribed by this section or refunded as prescribed by section 6 of
28 this article. Any amount required to be maintained in the ending
29 balance of the state general fund as provided by law shall be ex-
30 cluded from the amount available for transfer to the budget stabi-
31 lization reserve fund by this section.

32 (b) An amount of any excess amount of total state revenue shall
33 be transferred in the amount and in the manner prescribed by the
34 legislature by law to the budget stabilization reserve fund, which
35 fund is hereby created in the state treasury. The amount transferred
36 to the budget stabilization reserve fund in accordance with this sub-
37 section shall be equal to the lesser of (1) the amount necessary to
38 ensure that the balance in the budget stabilization reserve fund at
39 the end of the fiscal year is an amount equal to 7% of the total state
40 revenue limitation for the ensuing fiscal year, or (2) the amount
41 equal to 50% of any such remaining excess amount of total state
42 revenue. Income earned on the moneys credited to the budget stabi-
43 lization reserve fund shall accrue to the budget stabilization re-

1 serve fund. In no case shall additional moneys be transferred into
2 the budget stabilization reserve fund if the balance in the fund is
3 equal to or more than 7% of the total state revenue limitation for
4 the ensuing fiscal year. Each transfer to the budget stabilization
5 reserve fund prescribed by this section shall be made before any
6 transfer to the emergency reserve fund as provided in section 5 of
7 this article or any refunds as required by section 6 of this article.

8 (c) For any fiscal year that commences on or after July 1, 2011,
9 if the amount of the total state revenue is less than the amount of
10 total state revenue for the prior fiscal year, the legislature may pro-
11 vide by law for the transfer of moneys from the budget stabilization
12 reserve fund to the state general fund in an amount equal to not
13 more than the difference between the amount of total state revenue
14 for the prior fiscal year and the amount of total state revenue for
15 the current fiscal year. Under no other circumstances shall moneys
16 be transferred or expended from the budget stabilization reserve
17 fund of the state.

18 § 5. *Emergency Reserve Fund.* (a) For any fiscal year that com-
19 mences on or after July 1, 2011, if total state revenue exceeds the
20 total state revenue limitation for that fiscal year, as determined in
21 accordance with section 3 of this article, then, after making any
22 transfer to the budget stabilization reserve fund as required by sec-
23 tion 4 of this article, a portion of any remaining total state revenue
24 in excess of the total state revenue limitation shall be transferred in
25 the amount and in the manner prescribed by the legislature by law
26 to the emergency reserve fund, which fund is hereby created in the
27 state treasury, to the extent necessary to ensure that a balance of
28 the emergency reserve fund at the end of the fiscal year is an
29 amount equal to not more than 3% of the total state revenue limi-
30 tation for the ensuing fiscal year. Any amount required to be main-
31 tained in the ending balance of the state general fund as provided
32 by law shall be excluded from the amount available for transfer to
33 the emergency reserve fund by this section. Each transfer to the
34 emergency reserve fund prescribed by this section shall be made
35 after making any transfer to the budget stabilization reserve fund
36 as provided in section 4 of this article. The state shall not be re-
37 quired to transfer any moneys other than any amount of total state
38 revenue in excess of the total state revenue limitation to the emer-
39 gency reserve fund. The moneys in the emergency reserve fund
40 shall be in addition to, and shall not be used to meet, any other
41 reserve requirement under this constitution or any law. In no case
42 shall additional moneys be transferred to the emergency reserve
43 fund if the balance in the emergency reserve fund is more than 3%

1 of the total state revenue limitation for the ensuing fiscal year.

2 (b) Moneys in the emergency reserve fund may be expended
3 only for an emergency declared by the governor to exist within the
4 state. Two-thirds ($\frac{2}{3}$) of the members then elected (or appointed)
5 and qualified of each house, voting in the affirmative, shall be nec-
6 essary to pass any bill making an appropriation of money or trans-
7 ferring any moneys from the emergency reserve fund. Income
8 earned on moneys credited to the emergency reserve fund shall
9 accrue to the emergency reserve fund.

10 (c) As used in this section “emergency” means an extraordinary
11 event or occurrence that could not have been reasonably foreseen
12 or prevented and that requires immediate expenditures to preserve
13 the health, safety and general welfare of the people within the state
14 and “emergency” does not mean a revenue shortfall or budget
15 shortfall.

16 § 6. *Disposition of Excess Revenues.* (a) Any excess amount of
17 total state revenues for a fiscal year that remains after the transfers
18 to the budget stabilization reserve fund and emergency reserve fund
19 pursuant to section 4 or section 5 of this article, if any, shall be
20 reserved in the current fiscal year and shall be refunded as provided
21 by law during the next ensuing fiscal year to the taxpayers who paid
22 the state ad valorem property taxes or state income taxes, or both,
23 for the preceding fiscal year, in a manner that is proportional, on a
24 pro rata basis, to the manner in which such taxes were collected
25 from such taxpayers for such fiscal year. Any amount required to
26 be maintained in the ending balance of the state general fund as
27 provided by law shall be excluded from the amount available to be
28 reserved and refunded by the state as prescribed by this section.

29 (b) In a case of any amount that is received pursuant to any tax
30 and required to be reserved and refunded to taxpayers by the state
31 pursuant to this section and that is determined by the state in the
32 manner prescribed by law to be insufficient for refunds to be made
33 during the ensuing fiscal year, such amount shall be reserved for
34 refunds to be made thereafter when the amount reserved is suffi-
35 cient therefor.

36 § 7. *Temporary Borrowing.* On or after July 1, 2011, during
37 any fiscal year, transfers which are temporary and are to be repaid,
38 or any other temporary borrowing, through certificates of indebt-
39 edness or any other device or manner, of any moneys in the state
40 treasury to be credited to the state general fund, are prohibited
41 unless the moneys so transferred or otherwise borrowed are re-
42 stored or repaid to the original funds or accounts of the state treas-
43 ury from the state general fund within the same fiscal year. The

1 provisions of this section do not apply to transfers from the budget
2 stabilization reserve fund or the emergency reserve fund to the state
3 general fund in accordance with this article.

4 § 8. *General Revenue Supplanting.* On or after July 1, 2011,
5 any appropriation of moneys in the state treasury that either sup-
6 plants any appropriation from the state general fund, or that, if not
7 made, would require an appropriation from the state general fund
8 is prohibited. For purposes of this section, any appropriation of
9 moneys in the state treasury that is funded by user charges or fees
10 imposed on goods or services that do not exceed the cost of the
11 goods or services provided shall not be deemed to be an appropri-
12 ation that supplants any appropriation from the state general fund.

13 § 9. *State Mandates on Local Governments.* A local govern-
14 ment may not be required to fulfill any mandate imposed by the
15 state unless and until, and may be required to fulfill that mandate
16 only to the extent that, funds are provided to the local government
17 by the state for that purpose. The legislature is not required to
18 appropriate funds for mandates if more than two years have passed
19 since the effective date of the mandate and no claim for funding
20 has been made by the local government during that period.

21 § 10. *Construction.* (a) The provisions of this article shall be
22 liberally construed for the purpose of effectuating the purposes
23 thereof, except that nothing in this article shall be construed to
24 authorize any new or increased tax of any kind other than as pro-
25 vided or authorized by law enacted by the legislature in accordance
26 with and subject to the other provisions of this constitution.

27 (b) In any case of a conflict between any provision of this article
28 and any other provision contained in the constitution, the provisions
29 of this article shall control.

30 (c) All laws in force at the time of the adoption of this amend-
31 ment and consistent therewith shall remain in full force and effect
32 until amended or repealed by the legislature. The legislature shall
33 repeal or amend all laws inconsistent with the provisions of this
34 article to conform with the provisions of this article.”

35 Sec. 2. The following statement shall be printed on the ballot with
36 the amendment as a whole:

37 “*Explanatory statement.* Beginning July 1, 2011, this amendment
38 (1) would require a supermajority of $\frac{2}{3}$ of all members of the
39 House and of the Senate to pass certain bills related to the cre-
40 ation of a new tax or the increase in the rate of an existing tax,
41 (2) would impose spending and revenue limits on the state based
42 on increases in the consumer price index and population, with
43 provisions to adjust for economic downturns or transferred func-

1 tions, (3) would permit expenditures in excess of the limit im-
2 posed if authorized by a bill passed by a supermajority of $\frac{2}{3}$ of
3 all members of the House and of the Senate, (4) would provide
4 for a state budget stabilization reserve fund to be used when
5 state revenue declines, (5) would provide for a state emergency
6 reserve fund to be used only for emergencies that are declared
7 by the governor and not to be used for any revenue shortfall, (6)
8 would provide for excess state revenues, after transfers to the
9 reserve funds, to be refunded to state property or income tax-
10 payers, (7) would limit state temporary borrowing to that repaid
11 within the same year and would prohibit the state from replacing
12 general revenues with excessive fees and charges for goods and
13 services, (8) would provide that local governments could not be
14 required to fulfill unfunded state mandates, and (9) would gov-
15 ern in case of conflicts with statutes or other state constitutional
16 provisions.

17 “A vote for the proposition would limit state legislative authority
18 and would require a supermajority of $\frac{2}{3}$ of each house of the
19 legislature for state tax increases or extensions, would impose
20 state spending and revenue limits, would permit a supermajority
21 of $\frac{2}{3}$ of each house of the legislature to exceed the spending
22 limit, would require excess state revenues to be reserved for
23 economic downturns and emergencies, with limits, or to be re-
24 funded to taxpayers, would limit state temporary borrowing,
25 would prohibit unfunded mandates on local governments.

26 “A vote against the proposition would continue the present consti-
27 tutional and statutory authority for state government taxing and
28 spending by law, for disposition of tax revenues and for other
29 related matters in the exercise of the legislative power of this
30 state.”

31 Sec. 3. This resolution, if approved by two-thirds of the members
32 elected (or appointed) and qualified to the House of Representatives, and
33 two-thirds of the members elected (or appointed) and qualified to the
34 Senate shall be entered on the journals, together with the yeas and nays.
35 The secretary of state shall cause this resolution to be published as pro-
36 vided by law and shall cause the proposed amendment to be submitted
37 to the electors of the state at the general election to be held on November
38 9, 2010, unless a special election is called at a sooner date by concurrent
39 resolution of the legislature, in which case it shall be submitted to the
40 electors of the state at the special election.